

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jonathan Phillips	Team: Team # 6	CCRB Case #: 201202036	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 02/09/2012 2:54 PM	Location of Incident: Canal Street and Lafayette Street; 5th Precinct stationhouse	Precinct: 05	18 Mo. SOL 8/9/2013	EO SOL 8/9/2013	
Date/Time CV Reported Thu, 02/09/2012 3:55 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 02/15/2012 1:11 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Robert Zontini	28669	929402	005 PCT
2. An officer			005 PCT
3. POM Allen Ozersky	26876	946085	005 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andrew Buck	15437	927983	005 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Allen Ozersky	Off. Language: PO Allen Ozersky made remarks to § 87(2)(b) based upon race at Canal Street and Lafayette Street in Manhattan.	
B.POM Allen Ozersky	Discourtesy: PO Allen Ozersky spoke discourteously to § 87(2)(b) at Canal Street and Lafayette Street in Manhattan.	
C.POM Allen Ozersky	Force: PO Allen Ozersky used physical force against § 87(2)(b) at Canal Street and Lafayette Street in Manhattan.	
D.POM Robert Zontini	Discourtesy: PO Robert Zontini spoke discourteously to § 87(2)(b) en route to the 5th Precinct stationhouse in Manhattan.	
E. An officer	Force: An officer stabbed § 87(2)(b) with a sharp object inside the 5th Precinct stationhouse in Manhattan.	

Case Summary

Sgt. Robert Fagerlund of the 5th Precinct contacted the IAB Command Center on February 9, 2012, and reported the following incident on behalf of § 87(2)(b). IAB assigned the complaint log #12-08488 (*encl. 5*) and forwarded it to the Civilian Complaint Review Board (CCRB) on February 15, 2012.

At approximately 2:53 p.m. on February 9, 2012, PO Allen Ozersky of the 5th Precinct arrested § 87(2)(b) for soliciting watches at Canal Street and Lafayette Street in Manhattan. PO Andrew Buck and PO Robert Zontini, both of the 5th Precinct, transported § 87(2)(b) from the scene of his arrest to the 5th Precinct stationhouse, located at 19 Elizabeth Street in Manhattan. The following allegations resulted from this incident:

- **Allegation A: Offensive Language: PO Allen Ozersky made remarks to § 87(2)(b) based upon race at Canal Street and Lafayette Street in Manhattan.**
- **Allegation B: Discourtesy: PO Allen Ozersky spoke discourteously to § 87(2)(b) at Canal Street and Lafayette Street in Manhattan.**
- **Allegation C: Force: PO Allen Ozersky used physical force against § 87(2)(b) at Canal Street and Lafayette Street in Manhattan.**
- **Allegation D: Discourtesy: PO Robert Zontini spoke discourteously to § 87(2)(b) en route to the 5th Precinct stationhouse in Manhattan.**

§ 87(2)(g)

- **Allegation E: Force: An officer stabbed § 87(2)(b) with a sharp object inside the 5th Precinct stationhouse in Manhattan.**

The investigation determined that no officer stabbed § 87(2)(b) with a knife or other sharp object in the lobby of the 5th Precinct stationhouse. § 87(2)(g)

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- *At the time of the incident,* § 87(2)(b) *was a* § 87(2)(b).

Statements to Medical Personnel

§ 87(2)(b) was transported via ambulance from the 5th Precinct stationhouse to § 87(2)(b) Hospital at § 87(2)(b) (*encl. 22*). He complained to the responding paramedics, "I got cut." During triage at § 87(2)(b) Hospital, § 87(2)(b) stated that he was pushed and fell against a door handle and that his belt buckle, upon contact with the door handle, penetrated his skin and caused a laceration to his right groin.

Statements to PBMS Investigations

§ 87(2)(b) was interviewed by Sgt. Francisco Munoz and Sgt. Daniel Pavelchak of PBMS Investigations at § 87(2)(b) Hospital on § 87(2)(b) (*encl. 24*). His statement is contained the Unusual Occurrence Report associated with this incident. That report shows that § 87(2)(b) did not know why he was being arrested, and that [PO Buck] and [PO Zontini], his transporting officers, were rude to him and used inappropriate language while speaking to him. § 87(2)(b) reported that the officer seated in the front passenger's seat of the police vehicle, PO Zontini, pushed him into a wooden door while inside the 5th Precinct stationhouse. § 87(2)(b) reported that he did not know the exact cause of the injury he sustained to his right groin area, but he stated his belief that his belt buckle caused the injury. § 87(2)(b) did not allege that an officer struck him with a closed fist, kicked him, or struck him directly in the groin.

CCRB Statements

§ 87(2)(b) provided a telephone statement on February 22, 2012 (*encl. 7*). He was interviewed at the CCRB on March 5, 2012 (*encl. 8*). Those statements were generally consistent and are combined below.

At approximately 2:54 p.m. on February 9, 2012, § 87(2)(b) was standing alone outside the entrance to the Canal Street subway station near Lafayette Street and Canal Street in Manhattan. § 87(2)(b) had no objects in his hands and denied possessing or selling any watches on the date in question. § 87(2)(b) was wearing a blue jacket, beige pants, and a belt that has a wooden belt buckle with metallic embroidery and sharp edges that is shaped like an eagle. § 87(2)(b) had no objects stored in his front pants pockets. § 87(2)(b) identified two of his friends, § 87(2)(b) and § 87(2)(b) as witnesses to this incident, and he stated that § 87(2)(b) stood beside him about four feet away drinking a cup of coffee when the following incident unfolded.

PO Allen Ozersky of the 5th Precinct (identified via investigation and described as a uniformed white male with brown hair who appeared to be in his 40s and who stood 5'10", 200 lbs.) approached § 87(2)(b) on the sidewalk and requested his identification. § 87(2)(b) told PO Ozersky that he did not have his identification and that he had not committed a crime. In response, PO Ozersky said, "I don't like black people. Get the fuck out of here! I don't want to see black people here!"

From there, PO Ozersky grabbed § 87(2)(b) with one hand on the left biceps area of his jacket and pushed him in the chest against the green fencing of the subway entrance. § 87(2)(b)'s back made contact with the fence and he yelled, "Leave me alone." § 87(2)(b) made no movements with his arms and he did not pull his arms away from PO Ozersky; according to § 87(2)(b) both of his hands remained by his side. PO Ozersky removed his radio, stated the address, and placed his radio back into its holster.

PO Ozersky then lifted his right knee and pressed it two times against the inside of § 87(2)(b)'s right quadriceps area told § 87(2)(b) to turn around and to face the fence. Immediately after PO Ozersky lifted his knee and pressed it against § 87(2)(b) saw blood form on his right pants leg, but he did not feel pain or any sharp objects, including his belt buckle, make contact with his leg when PO Ozersky lifted his knee into him. Soon thereafter, about ten uniformed and plainclothed officers responded to the location and helped PO Ozersky handcuff § 87(2)(b). § 87(2)(b) made no other complaint about his handcuffing process and stated that he never fell to the ground.

Once § 87(2)(b) was handcuffed, he was placed into a marked RMP, and driven to the 5th Precinct stationhouse by PO Andrew Buck (identified via investigation and described as a uniformed white male who appeared to be in his 30s) and PO Robert Zontini (identified via investigation and described as a white male with gray hair who appeared to be in his 30s and who stood 6', 200 lbs.). During the approximate four-minute ride to the stationhouse, § 87(2)(b) told PO Buck and PO Zontini that he had not committed any crime. PO Zontini, the front seat passenger, told § 87(2)(b) two times, "Fuck you! Shut up!" § 87(2)(b) in response, yelled, "Fuck you." PO Buck, the driver, said nothing during the car ride to the stationhouse.

Upon arriving at the stationhouse, PO Zontini and PO Buck escorted § 87(2)(b) into the stationhouse and towards a wooden swinging door in the corner of the stationhouse lobby near the front desk; the officers did not stop to record § 87(2)(b)'s name into the command log or any other book and did not remove any of the objects that were stored in his pockets. § 87(2)(b) did not resist his movement into the stationhouse or towards the cell space.

While § 87(2)(b) was standing in front of the door facing away from the desk, PO Zontini grabbed him by the collar of the sweater that § 87(2)(b) was wearing underneath his blue jacket and pushed him forward at least two times into the door, causing § 87(2)(b)'s forehead to make contact with the door; § 87(2)(b) did not sustain any injuries as a result of the contact his forehead made with the door. During this time, § 87(2)(b) told PO Zontini that he had not committed any crime and that he did not want to go to jail. Approximately seven additional uniformed officers (whom § 87(2)(b) could not describe in additional detail because he was facing the door) converged around § 87(2)(b) during the time that PO Zontini pushed him into the door. § 87(2)(b) felt someone grabbing his waist from behind and he felt someone pull his belt buckle, which § 87(2)(b) stated remained fastened in front of his body atop his zipfly and which never shifted from its original position. It was during this time that § 87(2)(b) felt pain for the first time to his right groin area; § 87(2)(b) described the pain as a sharp object penetrating his skin. He stated that the pain he felt to his right groin area coincided with the expansion of the blood stain that § 87(2)(b) first saw form at the location of his arrest.

§ 87(2)(b) was ushered towards a bench near the cell area and was handcuffed to the bench. EMS arrived and transported § 87(2)(b) to § 87(2)(b) Hospital, where § 87(2)(b) received seven stitches to a laceration near his right groin area. § 87(2)(b) stated that he was made to believe by the officers who traveled with him to § 87(2)(b) Hospital that the laceration to his leg was caused by his belt buckle. § 87(2)(b) though, doubted that this was true because he felt that the depth of the laceration to his right groin area was too vast to be caused by his belt buckle; instead, he stated his belief that an officer inside the stationhouse stabbed him with a knife in the right groin area during the time that he was pressed against the door in the lobby of the 5th Precinct stationhouse. § 87(2)(b) did not see any officer holding a knife or any hard objects in their hands inside the stationhouse.

Witness: § 87(2)(b)

- § 87(2)(b) provided a telephone statement on July 25, 2012 (encl. 11).

Telephone Statement

§ 87(2)(b) stated that at the time of the incident he was selling bags, as he always does, with his cousin, § 87(2)(b) across the street from where § 87(2)(b) was arrested on Broadway. § 87(2)(b) denied observing § 87(2)(b)'s physical apprehension, and he denied seeing PO Ozersky approach § 87(2)(b) on the street. According to § 87(2)(b) he became attracted to the incident

involving § 87(2)(b) and PO Ozersky by a large commotion that pedestrians were making as a result of it.

§ 87(2)(b) and § 87(2)(b) ran across the street and saw § 87(2)(b) lying in handcuffs on the ground, but § 87(2)(b) could not state the position that § 87(2)(b) was in when he saw him (i.e. on back, side, stomach); § 87(2)(b) did not see or know how § 87(2)(b) ended up on the ground. PO Ozersky lifted § 87(2)(b) to his feet and placed him into a police vehicle. During that time, § 87(2)(b) saw blood forming on the front of § 87(2)(b)'s pants near his belt. § 87(2)(b) did not hear any of the officers speak to § 87(2)(b) at any point during this incident. When the vehicle § 87(2)(b) was placed into left the scene, § 87(2)(b) and § 87(2)(b) walked to the 5th Precinct stationhouse. The officers outside the stationhouse would not allow § 87(2)(b) and § 87(2)(b) to enter the stationhouse, and § 87(2)(b) therefore never saw § 87(2)(b) inside the stationhouse.

Witness: § 87(2)(b)

- § 87(2)(b) provided a telephone statement on April 20, 2012 (encl. 10).

Telephone Statement

§ 87(2)(b) did not witness § 87(2)(b)'s physical apprehension or handcuffing process, and he stated that when he arrived at the scene of § 87(2)(b)'s arrest, § 87(2)(b) was in handcuffs and was seated inside a police vehicle. § 87(2)(b) did not report that he saw § 87(2)(b) bleeding. § 87(2)(b) did not hear any officers speaking to § 87(2)(b) when he arrived. Once the vehicle containing § 87(2)(b) left the scene, § 87(2)(b) walked with § 87(2)(b) to the stationhouse. § 87(2)(b) corroborated that the officers outside the stationhouse would not allow § 87(2)(b) and § 87(2)(b) to enter it, and § 87(2)(b) stated that he did not see § 87(2)(b) inside the stationhouse.

NYPD Statements:

Subject Officer: PO ALLEN OZERSKY

- At the time of the incident, PO Ozersky was a § 87(2)(b).
- On February 9, 2012, PO Ozersky was assigned to community visits and he worked alone from 12:00 p.m. until 11:35 p.m. PO Ozersky was dressed in uniform and he worked on foot.

Memo Book

At 2:40 p.m. PO Ozersky noted that he observed § 87(2)(b) soliciting watches to pedestrians at Lafayette Street and Canal Street (encl. 12). When PO Ozersky approached § 87(2)(b) and requested his identification, § 87(2)(b) told PO Ozersky that he did not have identification and that PO Ozersky was a racist. § 87(2)(b) attempted to flee and moved in an aggressive manner and PO Ozersky detained him by himself and requested additional units. At 3:15 p.m. PO Ozersky noted that § 87(2)(b) while at the stationhouse, was bleeding from his groin. An ambulance was called at 3:20 p.m. Sgt. Fagerland notified IAB at 3:30 p.m. and PO Ozersky was interviewed by IAB at 6:00 p.m. At 7:00 p.m. PO Ozersky processed paperwork associated with § 87(2)(b)'s arrest, and he noted that § 87(2)(b) was "slashed by his own belt buckle."

Arrest-Related Documents

PO Ozersky completed the criminal complaint report, the arrest report, and the property vouchers associated with § 87(2)(b)'s arrest (encl. 13-14). The criminal complaint report and the arrest report consistently state that § 87(2)(b) was observed soliciting watches and that he did flail his arms, resist arrest, and lie in the stationhouse about his name and date of birth. The arrest report shows that no force was used against § 87(2)(b) during his arrest. § 87(2)(b) was charged with

obstruction of governmental administration in the second degree, resisting arrest, false impersonation, and a local law misdemeanor. PO Ozersky completed property vouchers for one pair of tan colored pants containing a blood stain, a brown colored belt with a metal buckle of an eagle containing a blood stain, and two cell phones. PO Ozersky also completed a medical treatment of prisoner report for § 87(2)(b) (*encl. 15*), which shows that § 87(2)(b) was treated at § 87(2)(b) Hospital at 4:00 p.m. on February 9, 2012, for a laceration he received to his groin area; no information concerning § 87(2)(b)'s treatment or diagnosis is contained in this report.

CCRB Statement

PO Ozersky was interviewed at the CCRB on March 6, 2013 (*encl. 17*). At approximately 2:40 p.m. on February 9, 2012, PO Ozersky was walking back to the 5th Precinct stationhouse when he observed § 87(2)(b) soliciting watches to a couple walking past him near Canal Street and Lafayette Street by saying, "Rolex, Rolex." The female pedestrian said, "No," and continued walking away from § 87(2)(b).

PO Ozersky approached § 87(2)(b), asked him what he was doing, and requested that § 87(2)(b) produce his identification. § 87(2)(b) refused to supply PO Ozersky with his identification, and PO Ozersky told § 87(2)(b) that he was only going to issue him a C-summons and that he needed § 87(2)(b)'s identification in order to do so. § 87(2)(b) again told PO Ozersky that he would not supply him with his identification, and PO Ozersky told § 87(2)(b) that he would therefore have to arrest him. § 87(2)(b) called PO Ozersky a racist and told him that the only reason he had stopped § 87(2)(b) was because § 87(2)(b) is black. PO Ozersky made no statements to § 87(2)(b) in response to his accusation that PO Ozersky was a racist. PO Ozersky never made any statements to § 87(2)(b) about his race, and he did not tell § 87(2)(b) that he did not like black people and that he did not want to see black people in the area. PO Ozersky never told § 87(2)(b) to "Get the fuck out of here," and he never used any profanity in speaking to § 87(2)(b). § 87(2)(b) told PO Ozersky that he could not arrest him, and § 87(2)(b) walked away from PO Ozersky.

In an effort to prevent § 87(2)(b) from walking away, PO Ozersky grabbed § 87(2)(b) by his jacket with his right hand, and in response, § 87(2)(b) flailed his arms and wiggled his body so that his jacket fell halfway off of his body. During this time, PO Ozersky cut his right hand on the zipper of § 87(2)(b)'s jacket. Apart from flailing his arms and moving his body, PO Ozersky could not recall any additional forms of resistance § 87(2)(b) offered. PO Ozersky, while grabbing § 87(2)(b)'s jacket with one hand, pushed § 87(2)(b) backwards into a green fence that surrounds the street level entrance to the underground subway station at Canal Street, causing § 87(2)(b)'s back to make contact with the fence. Using his other hand, PO Ozersky removed his radio and requested additional units.

Additional units (whom PO Ozersky could not identify apart from PO Buck and PO Zontini) responded to PO Ozersky's request for additional units, but because PO Ozersky was focused on restraining § 87(2)(b) and was out of breath as a result of doing so, he could not identify the additional officers who arrived or state when they arrived or what their involvement in handcuffing § 87(2)(b) was. PO Ozersky did not recall whether additional officers assisted him in restraining § 87(2)(b) and he did not recall when or how § 87(2)(b) was handcuffed. PO Ozersky could not recall if § 87(2)(b)'s chest ever made contact with the fence surrounding the subway station, and he could not recall if § 87(2)(b) fell to the ground at any point. PO Ozersky did not recall lifting his knee into § 87(2)(b)'s body or leg while handcuffing him, but stated that it was possible that he did so to restrain § 87(2)(b) and prevent him from running away.

PO Ozersky stated that § 87(2)(b) was wearing a metallic belt buckle that was shaped like an eagle, but he did not recall seeing § 87(2)(b)'s belt buckle make contact with his right leg or groin area during the time that he was being handcuffed. § 87(2)(b) was wearing khakis, but PO Ozersky did not know if § 87(2)(b) wore them at his waistband or whether § 87(2)(b) was sagging his pants.

Once § 87(2)(b) was handcuffed, he was placed into the police vehicle driven by PO Zontini and PO Buck, who transported § 87(2)(b) to the 5th Precinct stationhouse. § 87(2)(b) was not bleeding when he was placed into the police vehicle. PO Ozersky did not recall if § 87(2)(b) was searched before being placed into the transport vehicle and he did not recall if any hard objects were recovered from his pockets before he was placed into the transport vehicle. PO Ozersky did not hear either PO Zontini or PO Buck tell § 87(2)(b) "Fuck you!"

PO Ozersky did not see § 87(2)(b) resist movement into the stationhouse because he was not present when PO Buck and PO Zontini did this. He travelled to the stationhouse in a separate vehicle, and when he arrived there § 87(2)(b) was already inside the stationhouse and was standing in front of the front desk. PO Buck and PO Zontini stood beside § 87(2)(b) and PO Ozersky did not see either officer make physical contact with § 87(2)(b) inside the stationhouse and he did not see PO Buck, PO Zontini, or any other officer press § 87(2)(b) forward into a door. PO Ozersky never saw § 87(2)(b) make contact with any door inside the stationhouse and he did not see § 87(2)(b) to the ground inside the stationhouse. PO Ozersky did not make physical contact with § 87(2)(b) inside the stationhouse.

When PO Ozersky entered the stationhouse and approached § 87(2)(b) at the front desk, he noticed blood on the floor. Because PO Ozersky was bleeding from his hand, he thought the blood on the floor was his. Only when he looked at § 87(2)(b) did he notice blood forming on one of § 87(2)(b)'s pants legs; this was the first time that PO Ozersky saw § 87(2)(b) bleeding. In addition to the blood PO Ozersky observed on § 87(2)(b)'s pants, PO Ozersky saw blood on the metallic belt buckle shaped like an eagle that § 87(2)(b) was wearing; the belt buckle was removed and vouchered as evidence. At no point, either during § 87(2)(b)'s physical apprehension or inside the 5th Precinct stationhouse did PO Ozersky see § 87(2)(b)'s belt buckle make contact with his leg or right groin area. No officer, including PO Ozersky, PO Zontini, and PO Buck, stabbed or struck § 87(2)(b) with a sharp object.

After observing blood to § 87(2)(b)'s pants, PO Ozersky called for an ambulance, and § 87(2)(b) was removed from the stationhouse lobby to the arrest processing room. § 87(2)(b) did not make any statements to PO Ozersky about the cause of the bleeding to his leg, and the only comment that PO Ozersky remembered § 87(2)(b) making inside the stationhouse was telling PO Ozersky that he planned on suing him.

Subject Officer: PO ROBERT ZONTINI

- *At the time of the incident, PO Zontini was a § 87(2)(b).*
- *On February 9, 2012, PO Zontini patrolled sectors C and D of the 5th Precinct with PO Andrew Buck and he worked from 7:05 a.m. until 8:15 p.m. PO Zontini was dressed in uniform and he was assigned to RMP #5439, a marked sedan.*

Memo Book

At 2:44 p.m. PO Zontini marked that a 5th Precinct conditions post requested additional units at Canal Street and Lafayette Street (*encl. 18*). PO Zontini marked that a 5th Precinct conditions post

made an arrest at 2:52 p.m. and that he and PO Buck transported § 87(2)(b) to the 5th Precinct stationhouse. At 3:00 p.m. PO Zontini recorded that § 87(2)(b) was removed from the transport vehicle at the 5th Precinct stationhouse and that a contraband search of the vehicle was negative. PO Zontini recorded no other entries regarding this incident in his memo book.

CCRB Statement

PO Zontini was interviewed at the CCRB on March 6, 2013 (*encl. 19*). At approximately 2:44 p.m. on February 9, 2012, PO Ozersky requested via radio additional units at Canal Street and Lafayette Street; at the time of his CCRB interview, PO Zontini could not recall any additional information relayed via radio by PO Ozersky.

Upon arrival at the location, PO Zontini saw PO Ozersky standing next to § 87(2)(b) who was in handcuffs. § 87(2)(b) was already handcuffed when PO Zontini and PO Buck arrived at the location, and neither officer participated in or witnessed the handcuffing of § 87(2)(b). PO Zontini did not see any physical contact that PO Ozersky made with § 87(2)(b) in handcuffing him. PO Zontini did not observe any injuries to § 87(2)(b) when he first saw him, and he PO Zontini did not see § 87(2)(b) bleeding. PO Zontini did not hear PO Ozersky make any statements to § 87(2)(b) about his race, and PO Zontini did not hear PO Ozersky tell § 87(2)(b) that PO Ozersky did not like black people and did not want to see black people at the intersection.

Because PO Ozersky did not have an assigned vehicle, PO Zontini and PO Buck placed § 87(2)(b) into the rear seat of their RMP; § 87(2)(b) did not resist the placement into the police vehicle and he did not § 87(2)(b) to the ground during that process. PO Ozersky searched § 87(2)(b) before PO Zontini and PO Buck placed § 87(2)(b) into their vehicle, but PO Zontini did not know if any hard objects were discovered on § 87(2)(b)'s person.

From there, PO Buck and PO Zontini drove § 87(2)(b) to the 5th Precinct stationhouse. The car ride lasted approximately seven minutes, and PO Buck was the operator and PO Zontini was the recorder. PO Zontini could not recall any statements that § 87(2)(b) made during the car ride to the stationhouse, and he did not complain of any injuries to PO Zontini. PO Zontini did not recall any statements that he or PO Buck made to § 87(2)(b) during the car ride to the stationhouse, and he denied that he told § 87(2)(b) "Fuck you!" or made any profane comments to § 87(2)(b).

Upon arrival at the 5th Precinct stationhouse, PO Zontini and PO Buck escorted § 87(2)(b) into the stationhouse, around a railing, and towards the front desk; PO Zontini took about twenty-five steps while traveling this distance, and as he did so he walked behind § 87(2)(b) and held him by the elbows. § 87(2)(b) resisted the movement into the stationhouse by pulling his arms away from PO Zontini, but PO Zontini did not describe any additional resistance that § 87(2)(b) offered during this time. § 87(2)(b) did not § 87(2)(b) to the ground during his escort into the stationhouse, and he never fell to the ground at any point while inside the stationhouse.

After walking past the front desk, PO Zontini and PO Buck stopped and stood § 87(2)(b) in front of a door leading to the radio room and § 87(2)(b) was placed directly in front of the door; PO Zontini denied that he, PO Buck, or any other officer pressed § 87(2)(b) against the door. While standing handcuffed behind his back in front of the door, § 87(2)(b) wiggled his body and moved his arms in what PO Zontini construed as an attempt to remove his hands from § 87(2)(b)'s body. § 87(2)(b) yelled, "Let go of me!" and he told PO Zontini and PO Buck that he was going to sue them. At the time, PO Zontini was standing behind § 87(2)(b) to his left and he was holding § 87(2)(b) by the left elbow; apart from this, PO Zontini made no other physical contact with § 87(2)(b). PO Buck was standing to § 87(2)(b)'s right near the front desk, but PO Zontini did not

know what PO Buck was doing at the time, but he denied seeing PO Buck make any physical contact with § 87(2)(b) inside of the stationhouse.

Within five minutes of entering the stationhouse, § 87(2)(b) said, “My foot hurts. My foot hurts,” and PO Zontini told him to “relax” and that [PO Ozersky] would arrive soon to process him; PO Zontini stated that he and PO Buck were just securing § 87(2)(b) in the stationhouse until PO Ozersky arrived to begin processing the arrest paperwork. § 87(2)(b) for the third time inside the stationhouse, complained about his foot, and PO Zontini looked down towards § 87(2)(b)'s feet and noticed blood forming on the outside of the rear of § 87(2)(b)'s pants in the middle near his bottom. PO Zontini thought to himself, “What the hell is that from?” PO Zontini alerted PO Buck and Sgt. Mario Nicholas that § 87(2)(b) was bleeding, and PO Buck used his radio and requested an ambulance.

§ 87(2)(b) was escorted back to the holding cell area and that was the last time that PO Zontini saw § 87(2)(b). PO Zontini remained in the front of the stationhouse, and as he stood there with PO Buck waiting for EMS to arrive, another officer (whom PO Zontini could not identify) came out from the holding cell area holding a metal belt buckle shaped like an eagle with two long wings extending out on each side in the approximate length of a standard pen. The belt buckle had blood on it and the officer who displayed the buckle to PO Zontini stated his belief that the belt buckle caused the bleeding to § 87(2)(b). At no point during this incident did PO Zontini see the belt buckle penetrate § 87(2)(b)'s skin or make contact with his leg. At no point during this incident did PO Zontini or any other officer strike or stab § 87(2)(b) with a sharp object.

EMS arrived at the stationhouse and removed § 87(2)(b) to the hospital, but PO Zontini did not know what treatment § 87(2)(b) received. PO Zontini learned after the incident that the bleeding he observed on § 87(2)(b)'s pants was caused by a laceration that he sustained to his left leg.

Witness Officer: PO ANDREW BUCK

- *At the time of the incident, PO Buck was a § 87(2)(b)*
- *On February 9, 2012, PO Buck patrolled sectors CD of the 5th Precinct with PO Robert Zontini and he worked from 7:05 a.m. until 3:30 p.m. PO Buck was dressed in uniform and he was assigned to RMP #5051, a marked sedan.*

Memo Book

At 2:45 p.m., PO Buck recorded that he responded to a call requesting additional units at Canal Street and Lafayette Street (*encl. 20*). At 2:52 p.m., PO Buck recorded that one arrest was made. At 2:53 p.m., PO Buck recorded that he transported the perpetrator to the 5th Precinct. PO Buck arrived at the 5th Precinct stationhouse at 3:00 p.m. and a check of the vehicle was negative for contraband.

CCRB Statement

PO Buck was interviewed at the CCRB on March 20, 2013 (*encl. 21*). His statement was consistent with that provided by PO Zontini and is outlined below with exceptions and additional details noted.

Upon arrival at the location, PO Buck saw PO Ozersky standing near § 87(2)(b) but PO Buck could not recall how § 87(2)(b) was positioned or whether he was in handcuffs when he first saw him. Neither PO Buck nor PO Zontini participated in or witnessed the handcuffing process of § 87(2)(b). PO Buck did not see PO Ozersky lift his knee into § 87(2)(b)'s groin, and he did not

know what, if any, physical contact or force PO Ozersky used against § 87(2)(b) in handcuffing him. PO Buck did not hear PO Ozersky make any statements to § 87(2)(b) about his race, and he did not hear PO Ozersky tell § 87(2)(b) “I don’t like black people. Get the fuck out of here! I don’t want to see black people here.” PO Buck did not know why § 87(2)(b) was arrested and he did not know what he was charged with. PO Buck did not see any visible injuries to § 87(2)(b) when he first saw him on the sidewalk, and he did not see § 87(2)(b) bleeding.

The ride to the stationhouse lasted about three minutes. PO Buck was the driver and PO Zontini was the recorder in the front passenger’s seat. PO Buck did not recall § 87(2)(b) saying anything during the ride to the stationhouse, and he did not recall speaking to § 87(2)(b) or hearing PO Zontini speak to him during the ride to the stationhouse. PO Buck denied hearing PO Zontini say, “Fuck you” to § 87(2)(b) and he denied that PO Zontini used the word “Fuck” in any comments he made to § 87(2)(b) during the car ride to the stationhouse.

PO Buck remained alone inside the vehicle after § 87(2)(b) was removed from it in order to park the police vehicle. It took PO Buck a few seconds to park the vehicle and he entered the stationhouse thereafter. He did not recall seeing any blood on the backseats when he did the contraband search of the vehicle at the 5th Precinct stationhouse.

Upon entry into the stationhouse, PO Buck saw PO Zontini standing alone with § 87(2)(b) in front of the front desk. PO Zontini stood either in front of § 87(2)(b) or to his side, and § 87(2)(b) while handcuffed behind his back, moved his arms and elbows and moved his body for several seconds while standing in front of the front desk.

PO Buck approached PO Zontini and § 87(2)(b) and as he did so he noticed for the first time that blood was forming on § 87(2)(b)’s pants, and he subsequently called for an ambulance. PO Zontini made no statements to PO Buck about the blood before PO Buck noticed it, and § 87(2)(b) did not make any statements to PO Buck about the bleeding or its cause. PO Buck never learned what caused § 87(2)(b) to bleed, and he stated that he did not know what treatment § 87(2)(b) received at the hospital because he did not travel with him to the hospital.

PO Buck denied that he, PO Zontini, or any other officer made physical contact with § 87(2)(b) inside the stationhouse, and he denied that he, PO Zontini, or any other officer stabbed or struck § 87(2)(b) with a sharp object inside the stationhouse. § 87(2)(b) was not pressed against any surfaces inside the stationhouse. PO Buck did not recall § 87(2)(b) wearing a belt buckle shaped like an eagle, and he did not recall seeing a belt buckle penetrate or make contact with § 87(2)(b)’s leg.

Medical Records

§ 87(2)(b) was transported from the 5th Precinct stationhouse to § 87(2)(b) Hospital by EMS at 4:10 p.m. The pre-hospital care report (*encl. 22*) shows that § 87(2)(b) was observed bleeding from a “very deep” cut to his right pelvic area. EMS was told by police officers at the stationhouse that § 87(2)(b) was placed up against a wall inside the stationhouse and that either his belt buckle or a door knob cut him. Gauze and a bandage was applied to § 87(2)(b)’s wound.

At § 87(2)(b) Hospital, § 87(2)(b) was observed with an approximate ten centimeter long laceration to his upper inner thigh near his right groin by means of sharp object. § 87(2)(b) received seven nylon sutures and he was given a tetanus shot and Percocet for his pain (*encl. 23*).

NYPD Documents

Unusual Occurrence Report

Captain Gerard Dowling of the 5th Precinct completed an Unusual Occurrence Report for this incident (*encl. 24*). The report shows that statements were obtained from § 87(2)(b) PO Ozersky, Sgt. Robert Fagerlund, Sgt. Mario Nicholas, and PO Robert Putney:

- Sgt. Fagerlund, the conditions supervisor who verified § 87(2)(b)'s arrest, reported that when he arrived at the scene of § 87(2)(b)'s arrest, § 87(2)(b) was already handcuffed and seated inside the police transport vehicle. Sgt. Fagerlund reported to not receiving any complaints from § 87(2)(b) concerning his arrest, and he stated that he first became aware of § 87(2)(b)'s injury when he arrived back at the 5th Precinct stationhouse and saw blood on § 87(2)(b)'s pants. Sgt. Fagerlund did not see any officer strike § 87(2)(b) in any manner.
- Sgt. Nicholas, the desk sergeant at the 5th Precinct stationhouse, reported that he observed PO Buck and PO Zontini escort § 87(2)(b) into the stationhouse by grasping him by the arms. When positioned in front of the desk, § 87(2)(b) repeatedly turned around and asked PO Buck and PO Zontini why he was being arrested; § 87(2)(b) was loud and boisterous. PO Buck and PO Zontini maintained their grasps of § 87(2)(b)'s arms, and while being searched in front of the desk, § 87(2)(b) suddenly complained of pain to his right groin area. Sgt. Nicholas looked down and observed blood forming on § 87(2)(b)'s pants, and he subsequently requested an ambulance.
- PO Robert Putney, the telephone switchboard operator, reported that he only became aware of § 87(2)(b)'s presence inside the stationhouse when he saw blood forming on § 87(2)(b)'s pants. PO Putney did not see any officer strike § 87(2)(b) in any manner.

Member of the PBMS Investigations Unit canvassed Canal Street and Lafayette Avenue, but were unable to locate any video surveillance footage of § 87(2)(b)'s physical apprehension. Based on the evidence gathered during the preliminary investigation, Capt. Dowling concluded that the laceration § 87(2)(b) sustained to his right groin area was caused by his belt buckle, which was photographed and vouchered. The investigation was unable to determine, however, whether the laceration § 87(2)(b) sustained was caused by § 87(2)(b)'s own actions or by members of the service. Capt. Dowling did not recommend any changes in duty status to any members of the service, and he forwarded the report to the Chief of Internal Affairs.

Command Log

The 5th Precinct Command Log (*encl. 27*) shows that § 87(2)(b) was lodged into the stationhouse at 3:00 p.m. It was noted that § 87(2)(b) was bleeding, but no additional information regarding the source of his bleeding or its cause was noted in the command log. § 87(2)(b) was removed via ambulance to § 87(2)(b) Hospital at § 87(2)(b).

SPRINT Records

SPRINT § 87(2)(b) (*encl. 26A*) shows that a conditions footpost stopped one male at 2:48 p.m. at Canal Street and Lafayette Street, and that one arrest was made at 2:53 p.m. At 2:53 p.m. sector 5C responded to the location and transported § 87(2)(b) to the 5th Precinct stationhouse. Sector 5C marked at 2:54 p.m. that § 87(2)(b) was removed from the vehicle at the stationhouse.

SPRINT § 87(2)(b) (*encl. 26B*) shows that at 2:58 p.m. officers from the 5th Precinct requested that an ambulance respond and treat a prisoner, who was bleeding heavily from a puncture wound to

his right side. EMS arrived at the 5th Precinct stationhouse at 3:26 p.m. and transported § 87(2)(b) to § 87(2)(b) Hospital at 4:10 p.m.

Group 54 Investigation

According to Det. Joseph Himmelman of IAB Group 54, the lead investigator into § 87(2)(b) § 87(2)(b) the investigation into this incident remains open at IAB and no members of the service have been interviewed by IAB.

Photograph of Belt Buckle

Det. Himmelman supplied the CCRB with a black and white photocopy of § 87(2)(b)'s belt buckle (*encl. 25*), and he informed the undersigned investigator that a color copy of the belt buckle did not exist at IAB. The photocopy received by the CCRB depicts an eagle with its wings fully extended on each side, but the physical dimensions of the eagle cannot be discerned from the photocopy.

§ 87(2)(a) 160.50

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim on April 30, 2012, claiming, among other things, false arrest, malicious prosecution, and assault and battery. § 87(2)(b) claimed that he was both physically and verbally assaulted, and that he sustained a torn groin that required surgery, lacerations, bruising, and swelling. § 87(2)(b) is seeking an undisclosed monetary sum as redress (*encl. 29FF-29HH*).

§ 87(2)(c), § 87(2)(b)

Civilian's CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (*encl. 3*).

Subject Officers' CCRB History

- PO Allen Ozersky has been a member of the service for five years and there are no substantiated CCRB allegations against him (*encl. 1*).
- PO Robert Zontini has been a member of the service for eleven years and there are two substantiated CCRB allegations against him (*encl. 2*):
 - In CCRB #201100500, allegations of Force – Physical and Discourtesy – Word were substantiated against PO Zontini. The Board reviewed the case on January 11, 2012, and recommended that PO Zontini receive charges. As of the date of this report, CTS does not reflect the final NYPD disposition.

Conclusion

Identification of Subject Officers

PO Ozersky admitted to his role in this incident and he matches the physical description provided by § 87(2)(b). Allegations A-C were therefore pleaded against him. PO Zontini matches the physical description provided by § 87(2)(b) and he admitted to being the front seat passenger of the police vehicle used to transport § 87(2)(b) to the 5th Precinct stationhouse. Allegation D is therefore pleaded against him. Because § 87(2)(b) could neither identify nor describe the officer who he alleged stabbed him in the leg inside the stationhouse, and because the investigation determined that such action did not occur, Allegation E is pleaded against “An officer” from the 5th Precinct.

Investigative Findings and Recommendations

- **Allegation A: Offensive Language: PO Allen Ozersky made remarks to § 87(2)(b) based upon race at Canal Street and Lafayette Street in Manhattan.**
- **Allegation B: Discourtesy: PO Allen Ozersky spoke discourteously to § 87(2)(b) at Canal Street and Lafayette Street in Manhattan.**

§ 87(2)(b) alleged that upon approaching him on the sidewalk, PO Ozersky said, “I don’t like black people. Get the fuck out of here! I don’t want to see black people here!” PO Ozersky, the only person determined by the investigation to be present at the time that these comments were allegedly made, denied making such comments. No witnesses to this comment were located, and the factual details of the conversation that took place between PO Ozersky and § 87(2)(b) prior to § 87(2)(b)’s arrest remain unknown. § 87(2)(g)

- **Allegation C: Force: PO Allen Ozersky used physical force against § 87(2)(b) at Canal Street and Lafayette Street in Manhattan.**

§ 87(2)(b) alleged that PO Ozersky pushed him backwards into a green fence surrounding the entrance to the subway station and raised his knee two times and pressed it into § 87(2)(b)’s right quadriceps area. Though § 87(2)(b) did not feel pain to his leg and he did not feel any sharp objects made contact with his right groin area, he stated that immediately after PO Ozersky raised his knee into him that blood began to form on his right pants leg. According to § 87(2)(b) he made no movements with his hands or body during the time that he was being handcuffed, and he denied resisting his arrest.

According to § 87(2)(b)’s medical records, he sustained an approximate ten centimeter long laceration to his upper inner thigh near his right groin by means of sharp object that required seven stitches. Police records show that the blood on § 87(2)(b)’s pants coincided with blood observed to the metallic belt buckle shaped like an eagle that § 87(2)(b) was wearing at the time of his arrest.

Though § 87(2)(b) was charged with resisting arrest, PO Ozersky recalled few of the details surrounding § 87(2)(b)’s resistance and physical apprehension, and he testified to having no recollection of raising or lifting his knees into § 87(2)(b)’s body or groin area. Based on testimony obtained, § 87(2)(b) and PO Ozersky were the only two individuals present when PO Ozersky was alleged to have raised his knee into § 87(2)(b)’s leg. No eyewitnesses to this incident were located and corroborative eyewitness testimony was not obtained. Without additional evidence, the investigation could not determine whether PO Ozersky raised his knee into § 87(2)(b)’s leg or whether such action served a legitimate law enforcement function and was necessary in

overcoming § 87(2)(b)'s resistance. § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

- **Allegation D: Discourtesy: PO Robert Zontini spoke discourteously to § 87(2)(b) en route to the 5th Precinct stationhouse in Manhattan.**

§ 87(2)(b) alleged that during the car ride to the 5th Precinct stationhouse PO Zontini told him two times, "Fuck you! Shut up!" PO Zontini denied making this comment to § 87(2)(b) and PO Buck, the only other person present inside the vehicle during this time, denied hearing PO Zontini make this comment or any comment involving the word "Fuck." § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

- **Allegation E: Force: An officer stabbed § 87(2)(b) with a sharp object inside the 5th Precinct stationhouse in Manhattan.**

§ 87(2)(b) alleged that while he was pressed against a door inside the 5th Precinct stationhouse by PO Zontini, he felt sharp pain to his right groin area and saw the original blood stain on his right pants expand. Though he did not see an officer holding any sharp objects, § 87(2)(b) stated his belief that he was stabbed. § 87(2)(b) was unable to describe the officer who allegedly stabbed him in the leg because he was facing the door, and he did not actually see anyone stab him with anything. § 87(2)(b)'s statements to medical personnel and investigators at PBMS Investigations do not support his claim that the laceration to his leg was the result of being stabbed by an officer inside the stationhouse.

§ 87(2)(g)
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Team: 6

Investigator: _____ Jonathan Phillips _____
Signature Print Date

Supervisor: _____ Joy Almeyda _____
Title/Signature Print Date

Reviewer: _____ _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date